

NCR 6783
500.0034

Patent

#12
4-28-99
B. Hilliard
10/3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of : Zimmerman et al.
For: : SYSTEM AND METHOD FOR
MANAGING ELECTRONIC PRICE
LABEL OVERLAYS
Serial No. : 08/646,565
Filed : May 8, 1996
Group : 2773
Examiner : Sax, S.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date set forth below:

Signed: Marianna Tortorelli

Name: MARIANNA TORTORELLI

Date: April 22, 1999

Chapel Hill, North Carolina
April 22, 1999

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

APPELLANTS' REPLY BRIEF

Sir:

The present reply brief apologizes for the erroneous listing of the claims rejected and their basis for rejection flowing from a typographical error. This error is found at pages 2 and 4 of Appellants' Brief. The Examiner is thanked for his correction of this mistake. This reply brief also addresses the Answer's response to appellants' arguments.

At page 3, and numbered paragraph 11, the Examiner's Answer responds to the arguments of the Appeal Brief. This response begins with a statement "The Kosarew reference

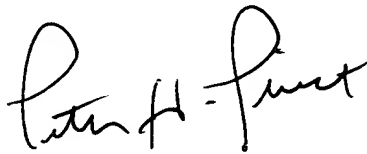
updates EPL overlays while they are in operation. See again the discussion in column 1 lines 60-68 and column 2 lines 1-11.” The cited text does not support this statement. The text at col. 1 line 60 through col. 2, line 11 of Kosarew is in fact directly contrary to this statement as this text indicates that “Labels are printed sequentially for the records contained in the CDF and are automatically applied to the EPL tags in a continuous process.” (emphasis added) In operation, EPLs are typically attached to shelf rails at the edge of the store shelves on which the corresponding products for which they display price information and the like are located. How could labels be automatically applied in a continuous process during EPL operation? The answer is that this cannot be done. Fig. 5 of Kosarew and the discussion at col. 3, line 56 through col. 4, line 57 do show how such automatic and continuous processing can be done as part of a manufacturer “completing a specific merchants order”. See particularly, Kosarew col. 3, lines 60-62. The batch approach to addressing of label defects, misapplied labels and the like discussed at col. 2, lines 3-6 of Kosarew is not to the contrary.

The Examiner’s Answer then proceeds to cite col. 2, lines 59-68 and col. 8, lines 25-49. The text at col. 2, lines 59-68 simply describes the ultimate intended use of Kosarew’s tags 10. It does not address Kosarew’s system or method. The text found at col. 8, lines 25-49 simply states that the tags 10 are distributed to the merchant along with an updated CDF customer data file. These two textual citations in no way support the Answer’s statements that “Even while in operation, new overlays are provided from the batch process and then applied. It may be true that there is a batch process, but this in operation while the EPLs are in effect in the store.” These statements are simply not supported by the text cited in their support.

Conclusion

The rejection of claims 1-19 should be reversed and the application promptly allowed.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Peter H. Priest".

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GAU 2773

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 6783 (500.0034)

Application of

Zimmerman et al.

Serial No. 08/646,565

Group Art Unit: 2773

Filed: May 8, 1996

Examiner: Sax, Steven P.

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APR 28 1999

Group 2700

For: **SYSTEM AND METHOD FOR MANAGING
ELECTRONIC PRICE LABEL OVERLAYS**

Assistant Commissioner
for Patents

Washington, D.C. 20231

CERTIFICATE OF MAILING

(37 CFR 1.8a)

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4/22/99
Date

Marcus Int'l

Sir:

Transmitted herewith for filing is Appellants' Reply Brief and two copies thereof in response to the Examiners Answer dated February 26, 1999. No further fee is believed to be due.

 X Please charge any additional fees to the account of NCR Corporation, Deposit
Account No. 14-0225.

Our telephone number is: (937) 445-2990.

Respectfully,

Paul W. Martin, Esq.

Attorney for: Zimmerman et al.